

## **FACTSHEET**

**TITLE:** CHANGE OF ZONE NO. 05072, a text amendment to Title 27 of the Lincoln Municipal Code, requested by Brian D. Carstens and Associates, by amending Section 27.65.080, "*Community Unit Plan: Design Standards; Density*", to add a provision to allow pre-existing lots to be included within the limits of a community unit plan without affecting the overall density.

**STAFF RECOMMENDATION:** Approval.

**SPONSOR:** Planning Department

**BOARD/COMMITTEE:** Planning Commission  
Public Hearing: 10/26/05  
Administrative Action: 10/26/05

**RECOMMENDATION:** Approval (7-0: Carlson, Carroll, Esseks, Larson, Pearson, Sunderman and Taylor voting 'yes'; Krieser declaring a conflict of interest; Strand absent).

### **FINDINGS:**

1. This proposed text amendment was heard in conjunction with an amendment to the Stevens Creek Pointe Community Unit Plan (Special Permit No. 1883A).
2. This proposed text amendment would allow pre-existing lots to be included in the community unit plan without affecting the overall density.
3. The staff recommendation of approval is based upon the "*Analysis*" as set forth on p.2, concluding that the proposed text amendment is expected to provide for better design while protecting existing lot density.
4. On October 26, 2005, this application was removed from the Consent Agenda of the Planning Commission due to an e-mail in opposition to the proposed amendment to the associated community unit plan (See p.8).
5. The applicant's testimony is found on p.4.
6. There was no testimony in opposition.
7. On October 26, 2005, the Planning Commission agreed with the staff recommendation and voted 7-0 to recommend approval (Krieser declaring a conflict of interest and Strand absent).
8. On October 26, 2005, the Planning Commission also adopted Resolution No. PC-00957, approving the associated amendment to the Stevens Creek Pointe Community Unit Plan (Special Permit No. 1883A).

**FACTSHEET PREPARED BY:** Jean L. Walker

**DATE:** October 31, 2005

**REVIEWED BY:** \_\_\_\_\_

**DATE:** October 31, 2005

**REFERENCE NUMBER:** FS\CC\2005\CZ.05072

# LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

## for October 26<sup>th</sup>, 2005 PLANNING COMMISSION MEETING

**P.A.S.:** Change of Zone #05072 - CUP density

**PROPOSAL:** Text amendment to :

City *Zoning Ordinance*, Chapter 27.65.080, CUP Density, to add a provision to allow pre-existing lots to be included in the density specifically.

**CONCLUSION:** This amendment would allow preexisting buildable lots to be included in a Community Unit Plan and not be affected by the general density calculations. This is expected to provide for better design while protecting existing lot density.

**RECOMMENDATION:**

Approval

### **ANALYSIS:**

1. This proposed zoning amendment would allow pre-existing lots to be included in Community Unit Plans (CUP) without losing the density of those lots. This should result in the ability to relocate existing “grand fathered” lots into a CUP and by including them result in a better design with no negative impact on density. Currently these “grand fathered” lots are often “wrapped around” by the CUP to avoid a loss of density.
2. This change was initiated by Brian Carstens specifically in relation to Stevens Creek Pointe CUP and two adjacent grand fathered, buildable lots. Staff and the applicant have mutually agreed this reflects a win win provision.
3. The proposed language has been adjusted by mutual agreement of the applicant and staff.

### **Proposed Language:**

Chapter 27.65  
Community Unit Plan

#### **27.65.080 Design Standards; Density.**

The density of a community unit plan, the shape, size, and location of buildings, required open space buffers, recreational facilities, and utilities shall be constructed in conformance with the design standards adopted by resolution of the City Council.

Pre-existing buildable lots located adjacent to a CUP may be included within the limits of the CUP and the previous permitted density from said pre-existing buildable lots may be transferred to another area in the CUP without effecting the overall density of the CUP as determined by the adopted design standards.

Prepared by:

Mike DeKalb, AICP  
441-6370, [mdekalb@ci.lincoln.ne.us](mailto:mdekalb@ci.lincoln.ne.us)  
Planner  
September 24, 2005

**APPLICANT:** Brian D. Carstens  
Carstens and Associates  
601 Old Cheney Road, Suite 'C',  
Lincoln, NE 68512  
(402) 434 - 2424

**CONTACT:** Brian D. Carstens

**CHANGE OF ZONE NO. 05072  
and  
SPECIAL PERMIT NO. 1883A,  
AMENDMENT TO THE STEVENS CREEK POINTE  
COMMUNITY UNIT PLAN**

**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

October 26, 2005

Members present: Pearson, Carroll, Sunderman, Taylor, Esseks, Larson and Carlson; Krieser declaring a conflict of interest; Strand absent.

Staff recommendation: Approval of the text amendment and conditional approval of the amendment to the community unit plan.

Ex Parte Communications: None.

These applications were removed from the Consent Agenda due to letter received in opposition to the amendment to the community unit plan.

Additional information submitted for the record: Mike DeKalb of Planning staff submitted an e-mail from Bruce Anderson in opposition, with concerns about the density; adjacency to commercial grazing lands, increasing risk of undesirable interactions between human occupancy and livestock; proximity to creeks; and water issues.

Proponents

1. **Jill Sherman** appeared on behalf of **Brian D. Carstens and Associates** and on behalf of the applicant and owners of the property, **Gerry and Dianne Krieser**. As the CUP exists today, the boundary does not include this area proposed to be added. There are two existing I.T. lots upon which two units could be built and take access to Adams Street. This proposal relinquishes the two accesses on Adams Street and moves them up into the current subdivision. The two existing dwellings on Adams are already gone.

There was no testimony in opposition.

**CHANGE OF ZONE NO. 05072**

**ACTION BY PLANNING COMMISSION:**

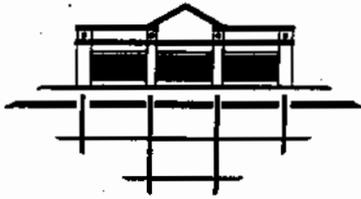
October 26, 2005

Larson moved approval seconded by Carroll and carried 7-0: Pearson, Carroll, Sunderman, Taylor, Esseks, Larson and Carlson voting 'yes'; Krieser declaring a conflict of interest; Strand absent. This is a recommendation to the City Council.

**SPECIAL PERMIT NO. 1883A,**  
**AN AMENDMENT TO THE STEVENS CREEK POINTE COMMUNITY UNIT PLAN**  
**ACTION BY PLANNING COMMISSION:**

October 26, 2005

Carroll moved to approve the staff recommendation of conditional approval, seconded by Larson and carried 7-0: Pearson, Carroll, Sunderman, Taylor, Esseks, Larson and Carlson voting 'yes'; Krieser declaring a conflict of interest; Strand absent. This is final action, unless appealed to the City Council within 14 days.



**BRIAN D. CARSTENS AND ASSOCIATES**  
LAND USE PLANNING RESIDENTIAL & COMMERCIAL DESIGN  
601 Old Cheney Road, Suite C Lincoln, NE 68512 Phone: 402.434.2424

September 15, 2005

Mr. Marvin Krout, AICP  
Director of Planning  
City of Lincoln/ Lancaster County  
555 South 10<sup>th</sup> Street  
Lincoln, NE 68508

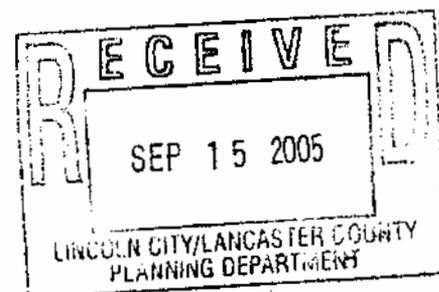
RE: STEVENS CREEK POINTE – SPECIAL PERMIT #1883A  
NORTH 134<sup>TH</sup> AND ADAMS STREET

Dear Marvin,

On behalf of Gerry and Diane Krieser, we submit the following revised CUP for your review. Since the time of the original approval, the Krieser's have purchased the two-5 acre parcels in the southwestern portion of the site. These Irregular Tracts (I.T.'s) were not part of the original CUP. One I.T. contained an older home which has been removed, and the other lot is vacant.

The Krieser's want to include the former I.T.'s within the limits of the CUP and relocate them to the northwest, near the other lots in the CUP. This will clear the way for the future right of way needs in the intersection location of the proposed East Beltway and Adams Street. Thus, eliminating the possibility of residences being built now on the two I.T.'s and then the City or the NDOR having to acquire them when the project moves forward.

We are requesting a waiver of the Preliminary Plat process, as the Special Permit Plans include the same information as a Preliminary Plat. We are requesting the same waivers of the subdivision ordinance for sidewalks, street trees, street lighting, landscape screening and block length that were approved with the original Special Permit #1883.



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We are also processing a Change of Zone/ Text Change to Section 27.71.270 of the LMC to allow for the inclusion of existing I.T.'s to be included within the limits of a CUP and not affect the overall density.

Please contact me if you have any further questions.

Sincerely,



Brian D. Carstens

Cc: Gerry and Diane Krieser

Enclosures: Application for a Special Permit  
Application Fees  
24 copies of Sheet 1 of 3  
8 copies of Sheets 2 & 3 of 3  
Certificate of Ownership  
8-1/2" x 11" reductions of the plans



Bruce E Anderson  
<beanders@unlnotes.unl.edu  
>  
10/26/2005 11:09 AM

To <plan@lincoln.ne.gov>  
cc  
bcc

Subject zone change protest

**History:** This message has been replied to.

I am opposed to the request for Change of zone No. 05072 and Special Permit No. 1883A at N 134th Street and Adams Street for the following reasons:

1. Increasing the number of lots from 7 to 9 will increase local density contrary to the initial, carefully planned densities established for the region.
2. There is no immediate need for added lots. Only 2 of the original 7 are currently occupied and there are numerous other lots available within several miles of this site besides the 5 remaining lots.
3. The area is adjacent to commercial grazinglands. Additional population will increase risks of undesirable interactions between human occupancy (including pets) and livestock.
4. Proximity of the lots to creeks presents risks of septic seepage and landscape runoff. Adding more lots will increase this risk.
5. If water is obtained via local wells, the demand could lower water tables and/or reduce the ability for the aquifer to supply sufficient water. Recent drought already has greatly reduced streamflow, even eliminating any water movement for extended periods of time. This has forced changes in livestock watering facilities in the adjacent grazinglands.
6. The planned east bypass is to be constructed within one-half mile of these lots. Adding more lots now will limit future options for desirable community planning within or near the bypass corridor.

\*\*\*\*\*

Bruce Anderson  
4101 N. 134th Street  
Lincoln, NE 68527

402/467-1088 home  
402/472-6237 work